

sections to recruit and appoint highly qualified persons directly to such positions in the department or agency.

“(b) **TERMINATION OF AUTHORITY.**—The head of a department or agency may not appoint a person to a position of employment under this section after September 30, 2007.

“(c) **REPORT.**—Not later than March 31, 2007, the Director of the Office of Personnel Management, in consultation with the Administrator for Federal Procurement Policy, shall submit to Congress a report on the implementation of this section. The report shall include—

“(1) a list of the departments and agencies that exercised the authority provided in this section, and whether the exercise of the authority was carried out in accordance with the regulations prescribed by the Office of Personnel Management;

“(2) the Director’s assessment of the efficacy of the exercise of the authority provided in this section in attracting employees with unusually high qualifications to the acquisition workforce; and

“(3) any recommendations considered appropriate by the Director on whether the authority to carry out the program should be extended.”

#### ARCHITECTURAL AND ENGINEERING ACQUISITION WORKFORCE

Pub. L. 108-136, div. A, title XIV, §1414, Nov. 24, 2003, 117 Stat. 1666, provided that: “The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Personnel Management, shall develop and implement a plan to ensure that the Federal Government maintains the necessary capability with respect to the acquisition of architectural and engineering services to—

“(1) ensure that Federal Government employees have the expertise to determine agency requirements for such services;

“(2) establish priorities and programs (including acquisition plans);

“(3) establish professional standards;

“(4) develop scopes of work; and

“(5) award and administer contracts for such services.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 405 of this title.

### § 434. Modular contracting for information technology

#### (a) In general

The head of an executive agency should, to the maximum extent practicable, use modular contracting for an acquisition of a major system of information technology.

#### (b) Modular contracting described

Under modular contracting, an executive agency’s need for a system is satisfied in successive acquisitions of interoperable increments. Each increment complies with common or commercially accepted standards applicable to information technology so that the increments are compatible with other increments of information technology comprising the system.

#### (c) Implementation

The Federal Acquisition Regulation shall provide that—

(1) under the modular contracting process, an acquisition of a major system of information technology may be divided into several smaller acquisition increments that—

(A) are easier to manage individually than would be one comprehensive acquisition;

(B) address complex information technology objectives incrementally in order to enhance the likelihood of achieving workable solutions for attainment of those objectives;

(C) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions; and

(D) provide an opportunity for subsequent increments of the acquisition to take advantage of any evolution in technology or needs that occur during conduct of the earlier increments;

(2) a contract for an increment of an information technology acquisition should, to the maximum extent practicable, be awarded within 180 days after the date on which the solicitation is issued and, if the contract for that increment cannot be awarded within such period, the increment should be considered for cancellation; and

(3) the information technology provided for in a contract for acquisition of information technology should be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.

(Pub. L. 93-400, §38, formerly §35, as added Pub. L. 104-106, div. E, title LII, §5202(a), Feb. 10, 1996, 110 Stat. 690; renumbered §38, Pub. L. 104-201, div. A, title X, §1074(d)(1), Sept. 23, 1996, 110 Stat. 2660.)

#### EFFECTIVE DATE

Section effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

### § 435. Levels of compensation of certain contractor personnel not allowable as costs under certain contracts

#### (a) Determination required

For purposes of section 2324(e)(1)(P) of title 10 and section 256(e)(1)(P) of this title, the Administrator shall review commercially available surveys of executive compensation and, on the basis of the results of the review, determine a benchmark compensation amount to apply for each fiscal year. In making determinations under this subsection the Administrator shall consult with the Director of the Defense Contract Audit Agency and such other officials of executive agencies as the Administrator considers appropriate.

#### (b) Benchmark compensation amount

The benchmark compensation amount applicable for a fiscal year is the median amount of the compensation provided for all senior executives of all benchmark corporations for the most recent year for which data is available at the time the determination under subsection (a) of this section is made.

#### (c) Definitions

In this section:

(1) The term “compensation”, for a fiscal year, means the total amount of wages, salary,